

IN THE STATE COURT OF DEKALB COUNTY

STATE OF GEORGIA

NORMA J. SHEPPERD,

Plaintiff,

v.

DOLLAR TREE STORES, INC. and
PEPSICO, INC.

Defendant.

Civil Action

File No.: 23A01387

DEFENSES AND ANSWER OF DOLLAR TREE STORES, INC.

COMES NOW Defendant, Dollar Tree Stores, Inc., (hereinafter, "Dollar Tree"), and files the following Defenses and Answer to Plaintiff's Complaint and shows the Court as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Defendant responds to the individual paragraphs of Plaintiff's Complaint as follows:

1.

Dollar Tree admits the allegations contained in Paragraph 1 of the Complaint.

2.

Dollar Tree admits the allegations contained in Paragraph 2 of the Complaint.

3.

Defendant denies as pled the allegations contained in paragraph 3 of Plaintiff's Complaint.

4.

Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 4 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

5.

Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 5 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

6.

Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 6 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

7.

Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 7 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

8.

Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 8 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

9.

Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 9 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

10.

Dollar Tree denies the allegations contained in paragraph 10 of Plaintiff's Complaint.

11.

Dollar Tree denies negligence. Further, Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 11 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

12.

Dollar Tree is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 12 of Plaintiff's Complaint and, therefore, cannot admit or deny same.

13.

Dollar Tree denies that Plaintiff is entitled to any relief requested in the "Wherefore" clause of Plaintiff's Complaint. Any allegation in Plaintiff's Complaint not answered or otherwise responded to is hereby denied.

THIRD DEFENSE

Defendant is not liable to Plaintiff because Defendant breached no duty owed to Plaintiff in regard to the occurrence giving rise to this Complaint.

FOURTH DEFENSE

Defendant shows that the alleged damages of Plaintiff, if any, were caused by the contributory and comparative negligence of Plaintiff.

FIFTH DEFENSE

Plaintiff, by the exercise of ordinary care, could have avoided the consequences of any act or failure to act of Defendant.

SIXTH DEFENSE

The Plaintiff's failure to properly plead items of special damages sought in this action prohibits and/or bars Plaintiff's rights to recover and/or recoup any items of special damages in this action, as a matter of law. O.C.G.A. § 9-11-9(g).

SEVENTH DEFENSE

Plaintiff's injuries, if any, were caused by an unforeseeable intervening third party tortfeasor and/or the acts and failure to act of persons or entities other than Defendant.

EIGHTH DEFENSE

The Complaint should be dismissed for improper venue.

NINTH DEFENSE

In the event that any benefits have been paid by or on behalf of Defendant, Defendant is entitled to a set off against any verdict for the amount of benefits paid. See, Orndorff v. Brown, 197 Ga. App. 591 (1990).

DEMAND FOR JURY TRIAL BY TWELVE (12)

Defendant, demands that the above-captioned case be tried by a jury of twelve, pursuant to O.C.G.A. § 15-22-122.

WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed with costs of this action cast against the Plaintiff.

This 17th day of April, 2023.

Goodman McGuffey LLP
Attorneys for Dollar Tree Stores, Inc.

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DEFENDANT DEMANDS
TRIAL BY JURY OF TWELVE

STATE COURT OF
DEKALB COUNTY, GA.
4/17/2023 11:04 AM
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BY: Mundy Jackson

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CERTIFICATE OF SERVICE

This is to certify that I have this day served all counsel and parties of record with a copy of DEFENSES AND ANSWER OF DOLLAR TREE STORES, INC. by statutory electronic service pursuant to O.C.G.A. § 9-11-5(b) or by depositing a copy of same in the United States Mail, postage prepaid, as follows:

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This 17th day of April, 2023.

By: /s/James T. Hankins, III
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